

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,
Plaintiff,
-against-
WALMART, INC. AND WAL-MART
STORES EAST, LP,
Defendants.

Case No. 20-1744-CFC-EGT

**STIPULATION AND ~~PROPOSED~~ ORDER AUTHORIZING
DISCLOSURE OF U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES RECORDS**

The U.S. Department of Health and Human Services (“HHS”) and Defendants Walmart Inc. and Wal-Mart Stores East, LP, (together, “Walmart”) pursuant to the Protective Order (D.I. 88) in the above-captioned action (this “Litigation”), respectfully submit this Stipulation and Proposed Order Authorizing Disclosure of HHS Records.

WHEREAS, HHS maintains a system of records relating to its investigations.

WHEREAS, the Centers for Medicare & Medicaid Services (“CMS”), its contractors, State Medicaid programs, Medicare Advantage insurers, and other

governmental entities and contractors maintain systems of records containing protected health information.

WHEREAS, the investigative system of records maintained by HHS contains protected health information from CMS, its contractors, State Medicaid programs, Medicare Advantage insurers, and other governmental entities.

WHEREAS, Walmart served a subpoena on HHS on or about October 29, 2024, requesting agency records pertaining to certain identified individuals maintained on HHS's system of record.

WHEREAS, HHS believes that the Privacy Act of 1974, 5 U.S.C. § 552a (the "Privacy Act") requires an Order from this Court to permit HHS to disclose HHS agency records without prior written consent of the individuals to whom the records pertain, absent an applicable exception. *See also* 45 C.F.R. § 5b.9(b)(11).

WHEREAS, the Court entered a similar Privacy Act addendum between CMS and Walmart on June 18, 2025 (D.I. 230) pertaining to protected health information maintained by CMS.

WHEREAS, HHS and Walmart recognize that the requested agency records may require specific handling and designation under the Protective Order.

IT IS HEREBY STIPULATED AND AGREED, by and between Walmart and HHS, subject to the approval of this Court and pursuant to the Court's authority under Fed. R. Civ. P. 26(c), that:

Pursuant to 5 U.S.C. § 552a(b)(12) of the Privacy Act, HHS, their officers, agents, employees, and representatives are authorized to release to Walmart's counsel, or other representatives and to the Court in this Litigation, any records or information protected by the Privacy Act, the disclosure of which, absent an Order from this Court could potentially constitute a violation of criminal and civil law. Such disclosures will be subject to the Protective Order (D.I. 88) entered on November 18, 2022.

/s/ Roger J. Gural
ROGER J. GURAL
Senior Trial Attorney
Consumer Protection Branch
U.S. Department of Justice
P.O. Box 386
Washington, D.C. 20044
Telephone: (202) 307-0174
E-mail: roger.gural@usdoj.gov

*Counsel for Department of Health and
Human Services*

/s/ Kelly E. Farnan
Robert W. Whetzel (#2288)
Kelly E. Farnan (#4395)
Richards, Layton & Finger, P.A.
One Rodney Square
920 N. King Street
Wilmington, DE 19801
(302) 651-7700
whetzel@rlf.com
farnan@rlf.com

*Attorneys for Defendants Walmart Inc.
and Wal-Mart Stores East, LP*

Dated: August 7, 2025

SO ORDERED this 11th day of August, 2025.


UNITED STATES MAGISTRATE JUDGE